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**DIGEST OF OTHER RECENT VIRGINIA DECISIONS.**

Note.—In this department we give the syllabus of every case decided by the Virginia Supreme Court of Appeals, except of such cases as are reported in full.

**CUNNINGHAM et al. v. JOHNSON.**

Sept. 7, 1914.

[82 S. E. 690.]

**1. Partition (§ 77\*)—Sale for Division—Proof to Authorize Sale.**—In partition, the court appointed four commissioners to divide the land among the parties, if they should determine that actual partition was practicable, which question was also referred to them. Two of such commissioners, with S. whose name was omitted from the decree appointing the commissioners as entered by the clerk through mistake, made a report that in their judgment the tract could not be partitioned in kind, but such two commissioners made affidavit that they had never been over the land but were on only one end of the tract, and signed the report on information derived from others. Held, that there was no evidence before the court upon which to base a decree for the sale of the land for division, as the report of the commissioners was discredited by the circumstances under which it was made.

[Ed. Note.—For other cases, see Partition, Cent. Dig. §§ 211-223; Dec. Dig. § 77.\* 10 Va.-W. Va. Enc. Dig. 790.]

**2. Partition (§ 77\*)—Partition or Sale—Conditions Precedent to Sale.**—A court has no authority to decree a sale of land for partition unless it is made to appear by an inquiry before a commissioner in chancery, or in some other way, the partition cannot be made.

[Ed. Note.—For other cases, see Partition, Cent. Dig. §§ 211-223; Dec. Dig. § 77.\* 10 Va.-W. Va. Enc. Dig. 790.]

Appeal from Circuit Court, Russell County.

Suit by T. J. Johnson against one Cunningham and others. From the decree, defendants appeal. Reversed and remanded.

*W. W. Bird*, of Lebanon, for appellants.

*Finney & Wilson*, of Lebanon, for appellee.

**STANLEY v. COMMONWEALTH.**

Sept. 7, 1914.

[82 S. E. 691.]

**Criminal Law (§ 42\*)—Immunity to Person Testifying.**—Election Law (Code 1904, § 145a) provides that no person shall expend, pay,

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\*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.